

REMARKS

Applicant's petition filed March 26, 2003 addresses point A on page 2 of the Office Action and the objection to the specification in point 3. Copies of the petition and of the return receipt confirming that the petition was received in the Patent and Trademark Office on March 26, 2003 are enclosed.

Claims 17-30 stand rejected under 35 USC 112, first paragraph. This is a new ground of rejection that was not necessitated by the amendments made in response to the previous Office Action, in that the claims previously of record referred to a flotation cell (see claims 1, 12, 14 and 16) and accordingly, if the references to a flotation cell in claims 17-30 render the description in the specification non-enabling, then the same rejection could and should have been made against the original claims instead of being held in reserve for a later Action. Applicant accordingly requests that finality of the rejection be withdrawn and that the amendments set forth above be entered.

Applicant respectfully traverses the rejection under 35 USC 112, first paragraph. The technology of flotation cells is well known, as shown, for example, by U.S. Patent 4,566,968, which corresponds to the Canadian publication mentioned on page 3 of the present application.

Claims 17-23 and 26-30 stand rejected under 35 USC 102 over Schofield and claims 24 and 25 stand rejected under 35 USC 103 over Schofield in view of Banner. Applicant has amended claim 17 and submits that claim 17 is patentable.

Claim 17, as now amended, refers to a flotation cell including a structure defining an outlet opening having a horizontal dimension and a vertical dimension. Support for the references in claim 17 to the horizontal dimension and vertical dimension of the outlet opening are found in FIG. 1 of the drawings and the description in the paragraph starting at page 3, line 30. The counterpart of the outlet opening is the outlet of the drainpipe 9 into the collecting pipe 10 and it is clear that this outlet opening has a vertical dimension and a horizontal dimension. Claim 17 further recites that the sensor element extends over substantially the entire vertical dimension of the outlet opening and has a width dimension that is substantially less than the horizontal dimension of the outlet opening. The reference to the vertical dimension is simply a restatement of the

previous reference to the transverse dimension of the outlet opening. The requirement that the width dimension of the sensor element be substantially less than the horizontal dimension of the outlet opening is supported by the paragraph starting at page 4, line 25, which states that the sensor element cuts the slurry flow in a narrow area.

Schofield discloses a flow meter for measuring flow of sewage from a pipe 12. The flow meter comprises an impact plate 14 mounted at the outlet end of the pipe 12 and shaped to cover substantially the entire opening defined by the pipe at its outlet end. The closest counterpart in Schofield of the sensor element referred to in claim 17 is the impact plate 14, but the width dimension of the impact plate is not substantially less than the horizontal dimension of the outlet opening of the pipe 12, as would be required in order to meet the limitations of claim 17. Further, the prior art does not suggest that the impact plate 14 should have a width dimension that is substantially less than the horizontal dimension of the outlet opening.

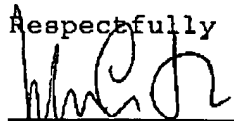
The examiner asserts that the outlet pipe 12 of Schofield constitutes a flotation cell within the meaning of claim 17. Applicant respectfully disagrees. A flotation cell is used for separating components of minerals and generally comprises a tank having a slurry inlet, a slurry outlet, and a rotor mounted in the tank for creating a froth that is discharged from the tank through a froth outlet. The only features in common between the pipe 12 of Schofield and a flotation cell are an inlet and an outlet. Applicant therefore submits that the pipe 12 does not constitute a flotation cell.

Claim 30 has been rewritten in independent form. The examiner asserts that the impact plate 14 of Schofield constitutes a rod within the meaning of claim 30. Applicant respectfully submits that the element 14 of Schofield, particularly when viewed in FIGS. 2, 7, 9 and 11, does not constitute a rod within any reasonable definition of that term. Applicant therefore submits that claim 30 is patentable over Schofield and it follows that the dependent claims 31-36 also are patentable.

The new claim 37 is written in independent form and not only recites that the sensor element is a rod but also recites that the rod has a length dimension such that the sensor element extends over

substantially the entire vertical dimension of the outlet opening. As discussed in connection with claim 30, applicant submits that the element 14 of Schofield does not constitute a rod within any reasonable definition of that term. In the circumstances, applicant submits that claim 37 is patentable over Schofield and it follows that the dependent claims 38-48 also are patentable.

Respectfully submitted,



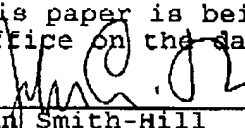
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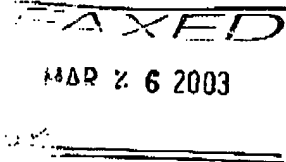
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PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of

Eljas SAASTAMOINEN et al

Art Unit: 2855

Application No: 09/980,439

Examiner:
Takisha S. Miller

Filed: January 4, 2002

For: ARRANGEMENT FOR MEASURING
CONCENTRATE FLOW IN CONNECTION WITH
FLOTATION CELLPETITION UNDER 37 CFR 1.181(a)(1)Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

In the Office Action mailed August 14, 2002, the examiner objected to the specification and demanded that section headings should be included in the disclosure. In the reply to the Office Action, applicant requested reconsideration of the examiner's requirement on the ground that Title 37, Code of Federal Regulations, does not require section headings in the specification of a patent application. In the Office Action mailed January 28, 2003, the examiner again required that section headings should be included in the specification.

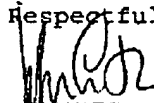
Applicant requests review of the examiner's position that 37 CFR 1.77 requires section headings in the specification of a patent application, petitions against the examiner's requirement in the Office Action mailed January 28, 2003 that section headings be provided in the specification, and requests a ruling confirming that there is no requirement in Title 37, Code of Federal Regulations, that section headings be included in the specification of a patent application. This petition is filed within two months of the mailing date of the action from which relief is requested.

The examiner asserts that 37 CFR 1.77 requires section headings. 37 CFR 1.77(c) says that the sections defined in paragraphs (b)(1) through (b)(11) of 37 CFR 1.77 should be preceded by a section heading. The word "should" expresses a preference or suggestion not a requirement. See 37 CFR 1.121(b)(2), which states "If the sections of the specification contain section headings..." and thereby clearly indicates that the sections might not contain section headings. Unlike a preference or suggestion, a requirement is

introduced by "must" or shall." See, for example, 37 CFR 1.63(a) ("An oath or declaration...must:..."), and 37 CFR 1.75(a) ("The specification must conclude with a claim...").

Applicant objects to being put to the expense and inconvenience of complying with a suggestion or preference that has been arbitrarily elevated to the status of a requirement without being subject to the procedures involved in rule making. In this case, the exchange of correspondence regarding section headings has consumed far more energy and attention than could possibly be justified by any perceived benefit to including section headings.

Respectfully submitted,



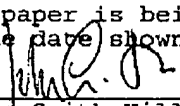
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